

**REMARKS**

This is in response to the Office Action mailed August 18, 2006. Claims 1 and 3 have been amended. Claims 8-16 are withdrawn. Claims 1-7 remain pending.

Support for claim and specification amendments can be found throughout the specification, drawings, and claims and specifically on page 1 lines 27-29 (for the title and abstract, the present invention is directed to a method for dispensing a use solution from a solid product into a dishwashing machine); throughout the specification, the cavity is referred to as reference character “20”; page 11 lines 19-23 and page 10 lines 4-9 (the water skims the bottom of the solid product); page 9, lines 4-6 (use solution is directed into the dishmachine via gravity); and page 8, lines 14-17 (the solid product is configured to fit within the opening of the insert member). It is believed that no new matter is included with these amendments.

**Election/Restrictions**

In this Office Action, pending claims 1-16 were restricted as follows:

Group I (claims 1-7) drawn to a method for dispensing, classified in class 134, subclass 34; and

Group II (claims 8-16) drawn to a product dispenser, classified in class 134 and subclass 93.

As the Office Action points out, Groups I and II are related as process and apparatus for its practice. Restriction is proper between patentably distinct inventions where (1) the invention are independent or distinct as claimed, and (2) there would be serious burden on the examiner if restriction is not required. Applicants do not believe that serious burden would be placed on the examiner in searching and examining Group I and Group II as indicated by the fact that they are related and in the same class (class 134).

However, if the Examiner disagrees with this suggestion, Applicants elect Group I (claims 1-7) for further prosecution in the present application. Claims 8-16 are therefore

withdrawn from consideration but are not canceled. No fees are believed due for consideration of the present reply.

### **Objections to the Specification**

The Office Action has objected to the abstract because it is not directed to a method of dispensing a use solution from a solid product into a dishwashing machine as claimed herein. Applicants respectfully traverse this objection and have amended the abstract to refer to a method of dispensing.

The Office Action has also objected to the title as not descriptive. Applicants respectfully traverse this objection and have amended the title to state: A Method of Using A Solid Rinse Additive Dispenser for Dispensing a Use Solution in a Dishwashing Machine.

Accordingly, it is respectfully requested that these objections be withdrawn.

### **Objections to the Drawings**

The Office Action has objected to the drawings as failing to comply with 37 CFR 1.84(p)(4) because reference characters “118” and “20” have both been used to designate cavity. In lieu of submitting amended replacement drawing sheets, Applicants have amended the paragraph starting on page 9 lines 23 and ending on page 10 line 11 to remove reference character 118 and replace it with reference character 20<sup>1</sup>. Applicants do not believe that this constitutes new matter because, as the Office Action acknowledges, the cavity is referred to throughout the specification as reference character “20”. Accordingly, it is respectfully requested that this objection be withdrawn.

---

<sup>1</sup> This is the only place that Applicants have seen the reference character 118. If 118 appears elsewhere, Applicants can make that change there as well. Applicants have not seen 118 in the drawings. Accordingly, Applicants are not submitting corrected drawing sheets.

### **Rejections Under 35 U.S.C. §112 Second Paragraph**

The Office Action has rejected claims 1-7 under 35 U.S.C. § 112, second paragraph as being indefinite. Specifically, the Office Action has rejected claim 1 because in step b) the phrase “concurrently supplying water ---- to rinse arms of a dishwashing machine and said water inlet” is confusing. Further, the Office Action has rejected claim 3 because the phrase “solid product being a desired shape” is a confusing term. Applicants respectfully traverse this rejection.

Claim 1 has been amended to state that water from the water source is concurrently supplied to both the rinse arms of a dishwashing machine and the water inlet, where water inlet is discussed in step a) as located in the cavity proximate the back of the cavity. Applicants believe that this phrase is clear. Applicants have amended claim 3 to state that the insert member includes an opening having a desired shape and the solid product is *configured to fit within the opening* of the insert member. Applicants believe that this phrase is clear. Accordingly, it is respectfully requested that this rejection be withdrawn.

### **Rejections Under 35 U.S.C. §103**

The Office Action has rejected claims 1-7 under 35 U.S.C. § 103(a) as being unpatentable over Everson et al. (US 6,773,668) in combination with Tarara et al. (WO 00/25658). Applicants respectfully traverse this rejection.

Applicants have amended claim 1 to state that the *water skims the bottom of the solid product* and that the use solution is directed into the dishwashing machine *via gravity*. Applicants believe that claim 1 as amended distinguishes the present invention over the prior art for the following reasons and that the prior art teaches away from the present invention.

Everson et al. is directed to a “flood type” dispenser, which means that a solid detergent is contained within a housing and the housing is flooded with water, therefore surrounding the solid product and dissolving a portion of the solid product. See, for example, Everson et al., abstract, column 3, lines 2-5, column 3, lines 10-15, column 3 lines 55-57, column 4, lines 5-10, column 4 lines 40-46, column 6, lines 2-10, and column 6, lines 18-22. Flood-type dispensers are discussed and distinguished in the present invention on page 1, lines 18-21 where it states “[f]lood-type dispensers may, in some circumstances, dissolve too much product when a lesser concentration is desired.” The present invention solves the problem of flood-type dispensers by using a dispenser that directs the water to only the bottom portion of the solid product allowing the water to skim the bottom of the solid product and flow out of the dispenser and into the dishmachine. This is reflected in amended claim 1.

Tarara et al. is directed to a spray-type dispenser that sprays the bottom of a solid product thereby dissolving a portion of the solid product that then flows out of the dispenser and into the dishmachine. See Tarara et al., page 6, lines 23-31 and Figure 2. Spray-type dispensers are discussed and distinguished in the present invention on page 1, lines 17-18 where it states “[s]pray-type dispensers tend to unevenly erode the solid product, which makes the concentration of the use solution unpredictable.” Again, the present invention solves the problem of spray-type dispensers by using a dispenser that directs water to the bottom portion of the solid product allowing the water to skim the entire bottom surface of the solid product allowing even dissolution of the solid product. This is reflected in amended claim 1.

For at least these reasons, it is respectfully requested that this rejection be withdrawn.

### **Rejections Under 35 U.S.C. §102**

The Office Action has rejected claims 1-3, 5 and 7 under 35 U.S.C. § 102(a) as anticipated by Sowle et al. (US 2003/0168085). Applicants respectfully traverse this rejection.

Sowle et al., like Everson et al., is directed to a flood-type dispenser which is different than the present invention for the reasons discussed above with respect to Everson et al. See, for example, Sowle et al. at paragraphs 0006, 0022, and 0026. Claim 1 has been amended to state that the water skims the bottom surface of the solid product which more clearly distinguishes the present invention from Sowle et al. Accordingly, it is respectfully requested that this rejection be withdrawn.

### **Information Disclosure Statement**

The Office Action has indicated that the information disclosure statement of March 9, 2005 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance of each patent listed that is not in English. Specifically, the Japanese reference JP/P2003-10093/A has not been considered as no English translation or statement of relevance was filed with the document. JP/P2003-10093/A is relevant because it was cited as an "A" reference in the International Search Report which Applicants believe was included with the information disclosure statement of March 9, 2005. Applicants respectfully request reconsideration of this reference.

The Office Action has also stated that the patent to Bricker et al. (US 5,262,132) has not been considered since it has been withdrawn as a patent. Applicants respectfully request that the present invention be evaluated in light of Bricker et al. as a reference, not necessarily as a patent.

**Summary**

It is respectfully submitted that each of the pending claims is in condition for allowance, and notification to that effect is kindly requested. The Examiner is invited to contact the Applicants' primary attorney-of-record, Anneliese S. Mayer, at (651) 795-5661, if it is believed that prosecution of this application may be assisted thereby.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 501257.

**43896**

PATENT TRADEMARK OFFICE

Respectfully submitted,

ECOLAB INC.  
Law Department  
Mail Stop ESC-F7  
655 Long Oak Drive  
Eagan, Minnesota 55121  
Phone Number: (651) 795-5661  
Fax Number: (651) 204-7507

Dated: November 17, 2006

By: /Anneliese S. Mayer/  
Name: Anneliese S. Mayer  
Reg. No. 54,434